IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL APPLICATION NO. 2538 OF 2007

Gautam Sahebrao Chavan & anr. ... Applicants.

V/s.

The State of Maharashtra. ... Respondent.

V.V.Purwant for the applicant.

S.S.Pednekar, APP for the State.

CORAM: V.C.DAGA, J.

DATED: 4th September 2007.

P.C.:

. Heard learned counsel for the applicant and learned A.P.P. for the State.

2. The complainant's complaint as per the case of the prosecution is that on 27th July, 2006, at about 1.45 p.m., deceased Nandusheth called him on telephone for the purpose of buying shoes from Pimpri. Accordingly, the complainant went to the lottery shop and met Nandusheth. However, the programme was fixed at 6.00 p.m. and, therefore, the complainant came back to his home. Thereafter at about 5.15 p.m. the complainant came to the lottery shop adjacent to Bhise Wine Shop situated at Landewadi Chowk. Said Nandusheth was drinking beer and therefore he stood outside the shop and was chitchatting with one Vishal Lande who is nephew of deceased. At about 5.45 p.m.,

applicant No.2 herein along with other persons, viz., Pintu Chavan, Babu Patole, Sudhir Dengle, Nitin Dhotre, Chochya came near the said lottery shop where the deceased was sitting. Out of them, viz., Nitin Dhotre asked deceased to pay Rs.5,000/- towards donation/fund for "Annabhau Sathe Jayanti Utsav". On that, the deceased refused and agreed to pay voluntarily Rs.1,001/-. He alleged that at that time, Nitin Dhotre took out weapon, viz., Koyta and others also took out their weapons which were with them. Applicant No.2 had also taken out one sword which was with him. Thereafter Nitin Dhotre, Babu Patole and Pramod Shelar attacked and caused severe injuries to deceased- Nandusheth who, ultimately, succumbed to the injuries. The present applicants along with others are made accused in the present crime.

3. The learned counsel appearing for the applicants submits that so far as present applicants are concerned no overt acts are alleged against them, though, their presence at the incident is proved. He, thus, submits that in this view of the matter, the applicants are entitled to bail.

4. Having seen the material available on record and considering the role of the applicants and their presence at the scene of the offence, I do not think this is a fit case for grant of bail in favour of the applicants. Application is, therefore, dismissed.

JUDGE